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OFFICE OF THE ATTORNEY GENERAL  
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# Press Release

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**ATTORNEY GENERAL DARRELL MCGRAW ANNOUNCES VICTORY  
IN MAJOR LITIGATION RESULTING IN \$1.67 MILLION REVENUE RECOVERY;  
THANKS COUNTY ASSESSORS FOR THEIR ROLE IN  
RECOVERY, MOST OF WHICH WILL GO TO THE COUNTIES**

Attorney General Darrell McGraw today announced his office's victory in the case of CSX Transportation, Inc. v. West Virginia Board of Public Works, a lawsuit filed by CSX seeking a refund of approximately \$1.7 million of allegedly discriminatory property taxes. Following trial in the United States District Court for the Southern District of West Virginia, the Court not only rejected CSX's demand for a refund but ruled that CSX was required to pay the State an additional \$1.67 million in taxes the company unlawfully withheld.

In the CSX litigation, the issue before the court was discrimination, specifically, whether the railroad's West Virginia property was being assessed at a higher level in Tax Years 2000 and 2001 than other commercial and industrial property throughout the state. In this regard, the Board of Public Works, which by law is the assessing body for railroad property, had assessed CSX at a rate of 60% for each year. Other commercial and industrial property is assessed by the local assessors of the counties in which the property is located. It was ultimately determined that the overall average assessment level for this other commercial and industrial property was 56.1% and 56.5%, respectively, for the two tax years.

Some years ago, Congress determined that railroads were the victims of historical tax discrimination by the states, although there was never any showing that West Virginia was guilty of such discrimination. In response to intense lobbying by railroad interests, a federal law was enacted that set up an unprecedented standard for the states to meet. Under this law, if a railroad's property is assessed at a level more than 3% higher than all other commercial and industrial property in a state, the state is guilty of discrimination as a matter of law. Attorney General McGraw commented, "This is akin to a school determining that any grade lower than 95% will henceforth be an F. The standard is unreasonably stringent; but it's the law, and it's what we've got to work with in federal court litigation."

For the tax years in question, after an extensive review of the tens of thousands of assessments performed by West Virginia's assessors, it was determined that the assessors achieved a level of assessment for all commercial and industrial property that was approximately 3-1/2 points below perfect. "That's an A grade in anyone's book," said Attorney General McGraw, "and our assessors should be applauded for their ongoing efforts to achieve the constitutional goal of tax fairness and equity. I know many of the assessors and I am aware of their collective hard work, dedication, and diligence in performing a difficult job with limited resources at their disposal."

Of the \$1.67 million won by Attorney General McGraw's office in the CSX litigation, 99-1/2% will be distributed to the counties and used primarily for the counties' educational needs. "All of West Virginia's assessors worked with this office in preparing for trial," noted McGraw, "and several should be specifically recognized for sacrificing hours, and in fact days, to share their expertise with us. They are: Ottie Adkins, Cabell County; Tom Aiello, Fayette County; David Baisden, Mingo County; Bill Blankenship, Mercer County; Phyllis Gatson, Kanawha County; Steve Grimm, Wood County; Greg Kloeppner,

Ohio County; and Cheryl Romano, Harrison County."

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